

§ 40.374

27 CFR Ch. I (4–1–07 Edition)

for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, TTB Form 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on TTB Form 5630.5), employer identification number, and period covered by the return. The list shall show, by State, the name, address, and tax class of each location for which special tax is being paid. The original of the list shall be filed with TTB in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for the period specified in § 40.371.

(d) *Signing of TTB Forms 5630.5*—(1) *Ordinary returns.* The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his or her capacity as “individual owner,” “member of firm,” or, in the case of a corporation, the title of the officer.

(2) *Fiduciaries.* Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(3) *Agent or attorney in fact.* If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the TTB office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) *Perjury statement.* TTB Forms 5630.5 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

§ 40.374 Issuance, distribution, and examination of special tax stamps.

(a) *Issuance of special tax stamps.* Upon filing a properly executed return on TTB Form 5630.5 together with the full remittance, the taxpayer will be issued an appropriately designated special tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment required by § 40.373(c)(2), but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(b) *Distribution of special tax stamps for multiple locations.* On receipt of the special tax stamps, the taxpayer shall verify that there is one stamp for each location listed on the attachment to TTB Form 5630.5. The taxpayer shall designate one stamp for each location and type on each stamp the address of the business conducted at the location for which that stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.

(c) *Examination of special tax stamps.* All stamps denoting payment of special tax shall be kept available for inspection by the appropriate TTB officers, at the location for which designated, during business hours.

(26 U.S.C. 5142, 5146, 6806)

§ 40.375 Changes in special tax stamps.

(a) *Change in name.* If there is a change in the corporate or firm name, or in the trade name, as shown on TTB Form 5630.5, the manufacturer shall file an amended special tax return as soon as practicable after the change, covering the new corporate or firm name, or trade names. No new special tax is required to be paid. The manufacturer shall attach the special tax stamp for endorsement of the change in name.

(b) *Change in proprietorship*—(1) *General.* If there is a change in the proprietorship of a cigarette papers and tubes factory, the successor shall pay a new special tax and obtain the required special tax stamps.

(2) *Exemption for certain successors.* Persons having the right of succession provided for in paragraph (c) of this section may carry on the business for the remainder of the period for which the special tax was paid, without paying a new special tax, if within 30 days after the date on which the successor begins to carry on the business, the successor files a special tax return on TTB Form 5630.5 with TTB, which shows the basis of succession. A person who is a successor to a business for which special tax has been paid and who fails to register the succession is liable for special tax computed from the first day of the calendar month in which the successor began to carry on the business.

(c) *Persons having right of succession.* Under the conditions indicated in paragraph (b)(2) of this section, the right of succession will pass to certain persons in the following cases:

(1) *Death.* The spouse or child, or executor, administrator, or other legal representative of the taxpayer;

(2) *Succession of spouse.* A husband or wife succeeding to the business of his or her spouse (living);

(3) *Insolvency.* A receiver or trustee in bankruptcy, or an assignee for benefit of creditors;

(4) *Withdrawal from firm.* The partner or partners remaining after death or withdrawal of a member.

(d) *Change in location.* If there is a change in location of a taxable place of business, the manufacturer shall within 30 days after the change, file with TTB an amended special tax return covering the new location. The manufacturer shall attach the special tax stamp or stamps for endorsement of the change in location. No new special tax is required to be paid. However, if the manufacturer does not file the amended return within 30 days, the manufacturer is required to pay a new special tax and obtain a new special tax stamp.

(26 U.S.C. 5143, 7011)

GENERAL

§ 40.382 Authority of TTB officers to enter premises.

The appropriate TTB officer may enter in the daytime any premises

where cigarette papers and tubes are produced or kept, so far as it may be necessary for the purpose of examining such articles. When such premises are open at night, the appropriate TTB officer may enter them, while so open, in the performance of his or her official duties. The owner of such premises, or person having the superintendence of the same, who refuses to admit the appropriate TTB officer or permit the appropriate TTB officer to examine such cigarette papers and tubes shall be liable to the penalties prescribed by law for the offense.

(68A Stat. 872; 903 26 U.S.C. 7342, 7606)

§ 40.383 Interference with administration.

Whoever, corruptly or by force or threats of force, endeavors to hinder or obstruct the administration of this subpart, or endeavors to intimidate or impede any TTB officer acting in an official capacity, or forcibly rescues or attempts to rescue or causes to be rescued any property, after it has been duly seized for forfeiture to the United States in connection with a violation or intended violation of this subpart, shall be liable to the penalties prescribed by law.

(68A Stat. 855; 26 U.S.C. 7212)

§ 40.384 Disposal of forfeited, condemned, and abandoned cigarette papers and tubes.

Forfeited, condemned, or abandoned cigarette papers or tubes in the custody of a Federal, State, or local officer upon which the Federal tax has not been paid shall not be sold or caused to be sold for consumption in the United States if, in the opinion of the officer, the sale of such papers and tubes will not bring a price equal to the tax due and payable, and the expenses incident to the sale. Where the cigarette papers or tubes are not sold the officer may deliver them to a Federal or State institution (if they are fit for consumption) or cause their destruction by burning completely or by rendering them unfit for consumption. Where such papers or tubes are sold, release by the officer having custody shall be made only after such papers and tubes are properly packaged and taxpaid. A